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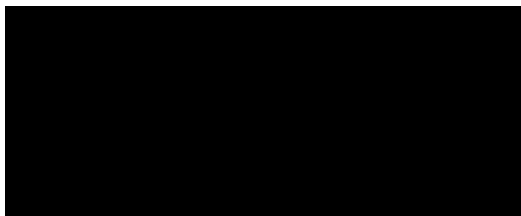
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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services



FILE:



Office: MANILA, PHILIPPINES

Date: FEB 12 2004

IN RE:

Applicant:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Acting Officer in Charge, Manila, Philippines and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Philippines who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. §1182(a)(6)(C)(i), for having sought to procure an immigrant visa by knowingly and willfully misrepresenting a material fact. The applicant is the beneficiary of an approved Petition for Alien Relative filed by her U.S. citizen mother. She now seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i) in order to travel to the United States to reside with her mother.

The Acting Officer in Charge concluded that the applicant had failed to establish that extreme hardship would be imposed on a qualifying relative. The application was denied accordingly. *See Acting Officer in Charge Decision* dated April 21, 2003.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

(i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General (now the Secretary of Homeland Security, [Secretary]) may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

After reviewing the amendments to the Act regarding fraud and misrepresentation and after noting the increased impediments Congress has placed on such activities, including the narrowing of the parameters for eligibility, the re-inclusion of the perpetual bar, eliminating alien parents of U.S. citizens and resident aliens as applicants and eliminating children as a consideration in determining the presence of extreme hardship, it is concluded that Congress has placed a high priority on reducing and/or stopping fraud and misrepresentation related to immigration and other matters.

The record clearly reflects that on January 20, 1995, during her application for an immigrant visa the applicant presented fraudulent birth certificates on behalf of her two children indicating that she was unmarried and therefore eligible for a visa as the unmarried daughter of a U.S. lawful permanent resident. The applicant later stated that on the original, true birth certificates she indicated she was married in order to show that the children were legitimate and spare them the embarrassment of being illegitimate.

Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family

member. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

In the present case, the applicant must demonstrate extreme hardship to her U.S. citizen parent.

*Matter of Cervantes-Gonzalez*, 22 I&N Dec. 560 (BIA 1999) provides a list of factors the Board of Immigration Appeals (BIA) deemed relevant in determining whether an alien has established extreme hardship pursuant to section 212(i) of the Act. These factors include the presence of a lawful permanent resident or United States citizen spouse or parent in this country; the qualifying relative's family ties outside the United States; the conditions in the country or countries to which the qualifying relative would relocate and the extent of the qualifying relative's ties in such countries; the financial impact of departure from this country; and significant conditions of health, particularly when tied to an unavailability of suitable medical care in the country to which the qualifying relative would relocate.

On appeal, the applicant submitted a statement asserting that her mother will undergo extreme hardship if her waiver application is not approved and she is not allowed to immigrate to the United States. In support of this assertion, she submitted letters from an orthopedic doctor, the latest dated November 16, 2000, stating that the applicant's mother suffers from right knee degeneration. The doctor's letters do not state what medication or treatment, if any, she is undergoing, and no documentary evidence was provided to substantiate the assertion that the applicant's mother cannot take care herself and complete her daily chores on her own.

In addition the applicant states that her mother is not able to work and therefore she will suffer financial if the applicant is not permitted to immigrate to the United States. The applicant has a sibling in the United States who is presently assisting the applicant's mother. The statement of financial hardship to the applicant's mother is contradicted by the fact that, pursuant to section 213A of the Act, 8 U.S.C. § 1183a, and the regulations at 8 C.F.R. § 213a, the person who files an application for an immigration visa or for adjustment of status on or after December 19, 1997 must execute a Form I-864 (Affidavit of Support) which is legally enforceable on behalf of a beneficiary (the applicant) who is an immediate relative or a family-sponsored immigrant when an applicant applies for an immigrant visa. The statute and the regulations do not provide for an alien beneficiary to execute an affidavit of support on behalf of an U.S. citizen or resident alien petitioner. Therefore, a claim that an alien beneficiary is needed for the purpose of supporting a citizen or resident alien petitioner can only be considered as a hardship in rare instances.

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. *See Hassan v. INS*, 927 F.2d 465 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined "extreme hardship" as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS*, *supra*, held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported. The U.S. Supreme Court additionally held in *INS v. Jong Ha Wang*, 450 U.S. 139 (1981), that the mere showing of economic detriment to qualifying family members is insufficient to warrant a finding of extreme hardship.

A review of the documentation in the record, when considered in its totality reflects that the applicant has failed to show that her U.S. citizen mother would suffer extreme hardship if she were not permitted to immigrate to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether the applicant merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(i) of the Act, the burden of proving eligibility remains entirely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.